

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER, STATE BAR NO. 101336
Supervising Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-3037
Facsimile: (619) 645-2061
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2010-536**

12 **LINDA PERRINO-RODRIGUEZ**
2850 Middlefield Road, #310
13 Palo Alto, CA 94306

A C C U S A T I O N

14 **Registered Nurse License No. 470133**

15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 31, 1991, the Board of Registered Nursing issued Registered
23 Nurse License Number 470133 to Linda Perrino-Rodriguez (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on June 30, 2011, unless renewed.

26 ///

27 ///

28 ///

1 JURISDICTION

2 3. This Accusation is brought before the Board of Registered Nursing (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
6 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
7 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
8 Nursing Practice Act.

9 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
11 licensee or to render a decision imposing discipline on the license. Under section 2811(b), the
12 Board may renew a license at any time within eight years after the expiration.

13 STATUTORY PROVISIONS

14 6. Section 2761 of the Code states:

15 "The board may take disciplinary action against a certified or licensed nurse or deny an
16 application for a certificate or license for any of the following:

17 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

18 "....

19 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
20 functions, and duties of a registered nurse, in which event the record of the conviction shall be
21 conclusive evidence thereof.

22 "..."

23 7. Section 2762 of the Code states:

24 "In addition to other acts constituting unprofessional conduct within the meaning of this
25 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
26 chapter to do any of the following:

27 "....

28 ///

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

“(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

“(b) Failure to comply with any mandatory reporting requirements.

“(c) Theft, dishonesty, fraud, or deceit.

“(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.”

9. California Code of Regulations, title 16, section 1445, states:

“ . . .

“(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

“(1) Nature and severity of the act(s) or offense(s).

"(2) Total criminal record.

“(3) The time that has elapsed since commission of the act(s) or offense(s).

“(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

“(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

“(6) Evidence, if any, of rehabilitation submitted by the licensee.”

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board/Registrar/Director may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(June 28, 2009 Conviction of a Crime – DUI on March 28, 2009)

11. Respondent is subject to disciplinary action under Code sections 490 and 2761, subdivision (f), in that on or about June 28, 2009, in the Superior Court of California, County of San Diego, North County Division, Case No. CN261258, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152(b) (Driving Under the Influence of Alcohol with Blood Alcohol of 0.08% or Above), a misdemeanor, a crime substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On March 28, 2009, at approximately 1830 hours, San Diego Sheriff's Office deputies responded to a report of a collision in the 3200 block of Camino Del Mar in the city of Del Mar, California. Upon arrival, officers found that Respondent had rear-ended the vehicle in front of her and that Respondent was under the influence of alcohol. Respondent was intoxicated to the point that she was unable to stand without assistance. Two breath samples obtained on the INTOX ER/IR machine located at the Sheriff's Encinitas, California station, reported a .22% blood alcohol content at approximately 1938 hours, and a .23% blood alcohol content at approximately 1941 hours. Respondent was placed under arrest and booked in the county jail.

1 b. As a result of the above conviction, Respondent was placed on five (5) years
2 summary probation and ordered to violate no laws, pay \$2,100 in fees and fines, given the
3 Standard Alcohol Conditions per Vehicle Code section 23600, ordered to enroll and complete the
4 First Conviction Program, and not to drive without a license or insurance. A restitution hearing
5 was scheduled for October 19, 2009, for which Respondent failed to appear whereupon a bench
6 warrant was issued for her arrest, which remains outstanding.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Use of Alcohol in a Manner Dangerous or Injurious to Self of Others)**

9 12. Respondent is subject to disciplinary action under Code sections 2761, subdivision
10 (a), and 2762, subdivision (b), in that Respondent used alcohol to an extent or in a manner
11 dangerous or injurious to herself or others, as is more fully set forth in paragraph 11, above,
12 which is incorporated here by reference.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Conviction of Alcohol Related Crime)**

15 13. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
16 and 2762, subdivision (c), in that Respondent was convicted of a criminal offense involving the
17 consumption of alcohol, as is more fully set forth in paragraph 11, above, which is incorporated
18 here by reference.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 470133 issued to Linda
23 Sue Perrino-Rodriguez.

24 ///

25 ///

26 ///

27 ///

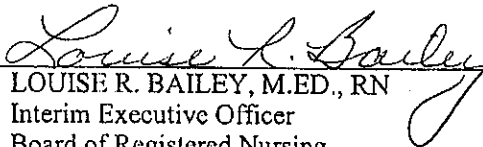
28 ///

1 2. Ordering Linda Sue Perrine-Rodriguez, to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

5
6 DATED: _____

4/23/10



LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

7
8
9
10 SD2009800256
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28